

Federal Acquisition Regulation

22.1202

policies and procedures for use in negotiated service contracts exceeding \$500,000 that involve meaningful numbers of professional employees.

[48 FR 42258, Sept. 19, 1983, as amended at 51 FR 2665, Jan. 17, 1986; 57 FR 60582, Dec. 21, 1992]

22.1102 Definition.

Professional employee means any person meeting the definition of *employee employed in a bona fide . . . professional capacity* given in 29 CFR part 541. The term embraces members of those professions having a recognized status based upon acquiring professional knowledge through prolonged study. Examples of these professions include accountancy, actuarial computation, architecture, dentistry, engineering, law, medicine, nursing, pharmacy, the sciences (such as biology, chemistry, and physics), and teaching. To be a professional employee, a person must not only be a professional but must be involved essentially in discharging professional duties.

22.1103 Policy, procedures, and solicitation provision.

All professional employees shall be compensated fairly and properly. Accordingly, the contracting officer shall insert the provision at 52.222-46, Evaluation of Compensation for Professional Employees, in solicitations for negotiated service contracts when the contract amount is expected to exceed \$500,000 and the service to be provided will require meaningful numbers of professional employees. This provision requires that offerors submit for evaluation a total compensation plan setting forth proposed salaries and fringe benefits for professional employees working on the contract. Supporting information will include data, such as recognized national and regional compensation surveys and studies of professional, public and private organizations, used in establishing the total compensation structure. Plans indicating unrealistically low professional employees compensation may be assessed adversely as one of the factors considered in making an award.

[57 FR 60582, Dec. 21, 1992]

Subpart 22.12—Nondisplacement of Qualified Workers Under Certain Contracts

SOURCE: 62 FR 44824, Aug. 22, 1997, unless otherwise noted.

22.1200 Scope of subpart.

This subpart prescribes policies and procedures for implementing Executive Order 12933 of October 20, 1994, Nondisplacement of Qualified Workers Under Certain Contracts, and Department of Labor regulations at 29 CFR part 9.

22.1201 Statement of policy.

It is the policy of the Federal Government that contracts for building services at public buildings shall require the contractor under a successor contract for performance of similar services at the same public building, to offer those employees (other than managerial or supervisory employees) under the predecessor contract, whose employment will be terminated as a result of the award of the successor contract, a right of first refusal to employment under the contract in positions for which they are qualified. Executive Order 12933 states that there shall be no employment openings under the contract until such right of first refusal has been provided.

22.1202 Definitions.

Building service contract, as used in this subpart, means a contract for recurring services related to the maintenance of a public building. Recurring services are services that are required to be performed regularly or periodically throughout the course of a contract, and throughout the course of the succeeding or follow-on contract(s), at one or more of the same public buildings. Executive Order 12933 lists examples of building service contracts as including, but not limited to, contracts for the recurring provision of custodial or janitorial services; window washing; laundry; food services; guard or other protective services; landscaping and groundskeeping services; and inspection, maintenance, and repair of fixed